



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG-2017-0446]

RIN 1625-AA00

Safety Zone; Appomattox FPS, Mississippi Canyon 437, Outer Continental Shelf on the Gulf of Mexico

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone extending 500 meters around the Appomattox Floating Production System (FPS) facility located in Mississippi Canyon Block 437 on the Outer Continental Shelf (OCS) in the Gulf of Mexico. This action is necessary to protect the facility from all vessels operating outside the normal shipping channels and fairways that are not providing services to or working with the facility. Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels as defined in 33 CFR 147.20, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone.

DATES: This rule is effective on May 8, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0446 in the “SEARCH” box

and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Laura Knoll, U.S. Coast Guard, District Eight Waterways Management Branch; telephone 504-671-2139, Laura.B.Knoll@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FPS	Floating production system
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
OCS	Outer Continental Shelf
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

Shell Exploration and Production Co. requested that the Coast Guard establish an Outer Continental Shelf (OCS) safety zone extending 500 meters from each point on the Appomattox Floating Production System (FPS) facility structure's outermost edge. In response to Shell Exploration and Production Co.'s request and on the basis of the District Commander's safety analysis, on March 20, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Appomattox FPS, Mississippi Canyon 437, Outer Continental Shelf on the Gulf of Mexico (83 FR 12144). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to establishing the 500-meter safety zone. During the comment period that ended on April 19, 2018, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the *Federal Register*.

Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety concerns and hazards that could occur within 500 meters of the facility.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority provided in 14 U.S.C. 85, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1(90), and Title 33, CFR sections 147.1, 147.5, and 147.10. The District Commander determined that placing a safety zone around the facility will significantly reduce the threat of collisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and living marine resources. The purpose of this rule is to protect the facility from all vessels operating outside the normal shipping channels and fairways that are not providing services to or working with the facility.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published on March 20, 2018. This regulatory text of this final rule contains one technical amendment. In the NPRM, we indicated that permission to enter the safety zone may be obtained from the District Commander or a designated representative in the discussion of the proposed rule but not the regulatory text. This final rule corrects the regulatory text to indicate that permission to enter the safety zone may be obtained from the District Commander or a designated representative.

This rule establishes a safety zone on the OCS in the deepwater area of the Gulf of Mexico at Mississippi Canyon Block 437. The area for the safety zone is 500 meters (1640.4 feet) from each point on the facility, which is located at 28° 34' 25.47" N 87° 56'

03.11" W. Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels as defined in 33 CFR 147.20, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated as a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the safety zone’s location and its distance from both land and safety fairways. This rule is not a significant regulatory action due to the location of the Appomattox FPS on the Outer Continental Shelf, and its distance from both land and safety fairways. Vessels traversing waters near the proposed safety zone are able to safely travel around the zone using alternate routes. Exceptions to this rule also include vessels measuring less than 100 feet in length overall and not engaged in towing and attending vessels as defined in 33 CFR 147.20. In addition, the

Eighth Coast Guard District Commander or a designated representative will consider requests to enter or transit through the safety zone on a case-by-case basis.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually

and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires

Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a safety zone around an offshore deepwater facility. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; and Department of Homeland Security Delegation No. 0170.1.

2. Add § 147.869 to read as follows:

§ 147.869 Safety Zone; Appomattox FPS Facility, Outer Continental Shelf on the Gulf of Mexico.

(a) *Description.* The Appomattox Floating Production System (FPS) system is in the deepwater area of the Gulf of Mexico at Mississippi Canyon Block 437. The facility is located at 28° 34' 25.47" N 87° 56' 03.11" W (NAD 83), and the area within 500 meters (1640.4 feet) from each point on the facility structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

- (1) An attending vessel, as defined by 33 CFR 147.20;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Eighth Coast Guard District Commander or a designated representative.

Dated: May 2, 2018

Paul F. Thomas,
Rear Admiral, U.S. Coast Guard,
Commander, Eighth Coast Guard District.

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